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SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

2010 OCT 15 AM 8:20

JEANNE HICKS, CLERK

S. KELBAUGH

BY: _____

IN THE SUPERIOR COURT OF STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,

Plaintiff,

v.

STEVEN CARROLL DEMOCKER,

Defendant.

Cause No. P1300CR20081339

Division 6

STATE'S REPLY TO DEFENDANT'S
OBJECTION TO STATE'S LATE
DISCLOSED REBUTTAL WITNESSES
AND MOTION TO PRECLUDE FILED
OCTOBER 14, 2010

The State of Arizona, by and through Sheila Sullivan Polk, Yavapai County Attorney, and her deputy undersigned, hereby submits its Reply to Defendant's Objection to State's Late Disclosed Rebuttal Witnesses and Motion to Preclude filed October 14, 2010.

At every step along the way the State has disclosed witnesses promptly. Admittedly, they have been disclosed primarily as witnesses in the State's case in chief under Rule 15.1, but occasionally it has been mentioned that some witnesses will be used in rebuttal. See State's disclosure of mitigation rebuttal witnesses in February, 2010. The State made a written proffer of witness testimony on March 4, 2010. See attached Exhibit A. The statements and reports concerning potential rebuttal witnesses have already been provided to the defense. All of this has been done without actually knowing the evidence to be rebutted. Furthermore, pursuant to request by the defense, the State has provided a list of rebuttal

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1 witnesses prior to the time of knowing what evidence to rebut.

2 In the case of *State v. Hatton*, 116 Ariz. 142, 150, 568 P.2d 1040, 1048 (1977) the
3 Arizona Supreme Court stated applicable rule of law, "that listing the witnesses' names for
4 use in the State's case-in-chief was adequate notice to the appellant to be prepared for their
5 testimony at any time."
6

7 The State has disclosed rebuttal witnesses to the best of its ability at this time. The
8 State requests that Defendant's Motion be denied.

9 RESPECTFULLY SUBMITTED this 14th day of October, 2010.

10 Sheila Sullivan Polk
11 YAVAPAI COUNTY ATTORNEY

12 By: 
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14 Joseph C. Butner
15 Deputy County Attorney
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1 COPIES of the foregoing delivered this
2 14th day of October, 2010 to:

3 Honorable Warren Darrow
4 Division 6
5 Yavapai County Superior Court
6 (via email)

7 John Sears
8 511 E. Gurley St.
9 Prescott, AZ 86301
10 Attorney for Defendant
11 (via email)

12 Larry Hammond
13 Anne Chapman
14 Osborn Maledon, P.A.
15 2929 North Central Ave, 21st Floor
16 Phoenix, AZ
17 Attorney for Defendant
18 (via email)

19 Chris DuPont
20 Attorney for Katie and Charlotte DeMocker
21 (via email)

22 John Napper
23 Attorney for Renee Girard
24 (via email)

25 By: 
26

<u>Name</u>	<u>YCSO Supplement</u>	<u>Proffer</u>
1. David Soule	25,27,28,34,42,44 52,57,84,119	Victim's boyfriend – DNA swab obtained and tested – Rebuttal witness – does not live in AZ
2. Debbie Hill	51,94	Victim's close friend Mitigation rebuttal witness
3. Sally Butler	25-27,34,40-42,44 52,81,94	Victim's close friend/Victim's habits/ Defense has already interviewed Sally Butler Has known Defendant since they were 17 yoa, met at Prescott College Met Victim through Defendant approximately 17 yrs. ago 5 yrs. Before divorce distanced herself from Defendant but remained close to victim, distanced herself because she was displeased with the way Defendant treated victim. Stayed in touch with victim In email contact on 7-2-08 before her death and was going to have a telephone conversation with her when victim returned from her run. Familiar with victim's habit of running in the evening after work
4. Jana Johnson	21,29	Saw bicycle rider around 6:30 p.m.
5. Diane Cornsweet	10,27,53	Victim's therapist – Not a witness
6. Cody Ann Buscher	87	Provided real estate maps to Defendant
7. Nikki Check	64	Victim's close friend – Daily routine, Carol's run, not locked doors, phone call on 7/2/08
8. Sean Bailey	93	DNA swab obtained and swab tested Not a witness
9. Morgan Jay	48,76,126	DNA swab obtained and swab tested Not a witness

- | | | |
|--------------------------|------------|---|
| 10. Mike Bueler | | Defendant was enrolled in Great Expectations
Rebuttal witness |
| 11. Debbie Dettman | 29,33,35 | Defendant's beneficiary and two life insurance policies for \$750,000 combined and death benefit |
| Michelle Kearns | 29,33,35 | |
| 12. Lynn Shoopman | 9,11 | Rain in Williamson Valley on or about 7/1 and/or 7/2 of 2008 |
| 13. Debbie Sims | | Defendant not at Hassayampa Fitness Center |
| 14. Terry Sims | | Defendant not at Hassayampa Fitness Center |
| 15. Dr. Fred Markham | 73,119 | DNA swab obtained and swab tested
Rebuttal witness |
| 16. Catherine Peterson | 51 | Did not see Defendant in Love Lane Williamson Valley area |
| 17. Larry Peterson | 51 | Did not see Defendant in Love Lane Williamson Valley area |
| 18. Tommy Meredith | 92 | Saw white car pull in to Defendant's garage at around 10:00 p.m. |
| 19. Sturgis Robinson | 23,48,90 | Mitigation rebuttal witness |
| 20. Jill Dyer | 87 | Defendant's application to social security for Charlotte |
| 21. Dr. Bill Rubin | 91,103 | Carol / Barb document not therapy
Rebuttal witness |
| 22. Dr. Michael Wineberg | 73,119 | DNA swab obtained and swab tested
Not a witness
Rebuttal |
| 23. Don Wood | 27, 51, 53 | Steven DeMocker said Don Wood was duped by Carol Kennedy into believing that she feared for her life from Steven DeMocker |

24. Jeff Zyche	27	DNA swab obtained and swab tested Auto repair paper found behind victim's residence
25. Deane Shank	108,119	DNA swab obtained and swab tested Spiritual teacher Rebuttal Not a witness
26. Richard Ach	123	Mitigation rebuttal witness

27. Sgt. Sy Ray

Expert in finding cell phone locations in real time

1958 Call to voice mail by James Knapp hits tower 431 in sector 1

308 Verde Lane is very close to 431 Tower in Sector 1 (north sector) 200-300 yds
or less

2 or more towers create a cell

Digital Receiver Technology (DRT)
Frequency scanner
CDMA phone 1900 MHZ frequencies
System ID 4170

Only 2 channels available at 7485 Bridal Path are 1958.7500 and 1960

1959 phone drops at victim's house

Conclusion: Within the Sprint Network, it is physically impossible for a cell
phone to contact tower 431 from 7485 Bridal Path

28. Gregory Cooper

Behavioral Aspects of the Crime Scene

- I. Signature aspect of the crime: behavior unnecessary to commit crime
 - a. possible overkill
 - b. crime scene staging
 - c. personal motivation gain
 - not a theft / not sexual
 - d. anger, rage, personal animosity

e. punished to death

II. Crime classification

a. personal cause homicide

III. Modus Operandi: Behavior necessary to commit crime

a. effect escape

b. protect identity

c. ensure success of crime

d. logical and rational

IV. Victimology

a. low risk victim, at most medium

b. getting divorce increases risk

c. lower risk level higher probability victim and offender knew each other

d. victim targeted

e. high risk victim – crime of opportunity